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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,520	12/04/2003	Carol I. DelGaudio	END920030115US1 (17050)	9144
23389 7590 03/17/2009 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER SHIN, JOHN Y				
ART UNIT 3687		PAPER NUMBER		
MAIL DATE 03/17/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/728,520

Applicant(s)

DELGAUDIO ET AL.

Examiner

John Shin

Art Unit

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 20, 2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. *Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guheen et al. (6,615,166) in view of Campbell (2005/055357), Taira et al. (5,930,806), and Galloway et al. (2004/0194055).*

4. Regarding claims 1, 7, and 13, Guheen et al. discloses a method of managing an enterprise-wide migration from one type of network to another type of network, comprising the steps of:

- creating instances of databases for an enterprise-wide migration (column 9, lines 2-25: *via database entries created for analysis of migration needs*);
- said databases include a billing and reporting database (column 138, lines 35-40);
- building an inventory of the affected hardware and software using an inventory tracking tool or an inventory mailer (See Figure 1C, *via indicia coding the components of the system in order to indicate required components for the implementation of the system*);
- ordering hardware and software for the migration based on said planning and said inventory, using an inventory tool (column 164, lines 1-8: *via procurement of hardware and software needed for system implementation while logging all assets into inventory as they are received*); and
- wherein agents for said creating, gathering, building and tracking are enabled using an agent control facility (See col. 134 at lines 57-67, *via event data generation agents for gathering management information*).

Although Guheen fails to expressly disclose the following limitations, they are shown by Campbell:

- said databases include a migration manager database that includes one entry for each client, machine, and device affected by the migration (paragraph 46: *See OSS database 28*);

- gathering information on the organization, location, hardware, and software affected by said migration into the migration manager database (paragraph 46);
and
- determining hardware that needs to be ordered for the migration using the migration manager database (paragraph 49: *Shows determining and replacing unsupported hardware for migration purposes. If such hardware is not on-hand, then it's obvious that it must be ordered.*)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the system and method of Guheen by adding the above limitations taught by Campbell in order to help facilitate a successful migration.

Guheen in view of Campbell does not expressly disclose an enterprise-wide migration from one type of network to another type of network. However, Taira et al. discloses a method and system for data migration from network database to relational database including an enterprise-wide migration from one type of network to another type of network (See the Abstract via a data migration from a network data model type to a relational data model type). From the disclosure of Taira et al. it would have been obvious to one having ordinary skill in the art at the time that the invention was made to modify the system and method of Guheen in view of Campbell to include migration of data from one type of network to another type of network as taught by Taira in order to migrate data without degradation of data quality (see col. 2 at lines 10-15 of Taira et al.).

Guheen in view of Campbell and Taira does not expressly show tracking and billing labor, hardware, and software as installed in said another type of network, using

said migration manager database and said billing and reporting database. However, this limitation is shown by Galloway (paragraph 46 shows labor, paragraph 58 shows software, paragraph 72 shows hardware; all of this information is tracked on assessment template). It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Guheen in view of Campbell and Taira by adding the above limitations taught by Galloway in order to help determine the costs associated with a migration project (Galloway: paragraphs 7, 8).

5. Regarding claims 2, 8, and 14, Guheen et al. discloses wherein said database for planning includes one entry for each device affected by the migration (See col. 109 at lines 38-43, via eliminating double entry of repository information).
6. Regarding claims 3, 9, and 15, Guheen et al. discloses a further step of transmitting the built inventory into the database for planning (See col. 9 at lines 1-10, via a database which includes all required components of the system).
7. Regarding claims 4, 10, and 16, Guheen et al. discloses wherein agents are enabled for all of said created instances (See col. 8 at lines 20-48, via determining whether and how many vendors supply services to each particular component).
8. Regarding claims 5, and 11, Guheen et al. discloses wherein the agent control facility includes an agent control database (See col. 14 at lines 44-67, via product1 command center).

9. Regarding claims 6, and 12, Guheen et al. discloses wherein the agent control database performs the agent executions (See col. 14 at lines 44-67, via product1 command center).

10. Regarding claim 17, Guheen et al. discloses wherein the agent control facility includes an agent control database, and the agent control database performs the agent executions (See col. 14 at lines 44-67, via product1 command center).

11. Regarding claim 18, Guheen et al. shows:

- the step of building an inventory includes the steps of using a mobile migration manager inventory tracking tool to gather information about a client, machine and device, and sending the mobile migration manager inventory tracking tool to remote employees (See col. 135 at lines 14-41, via remote management applications);
- the databases further includes a migration manager inventory tracking mailer database containing one entry for each remote employee who has been sent the mobile migration manger inventory tracking tool (See col. 147 at lines 40-50, via the ability to generate distribution candidate lists from asset/inventory management database);
- the step of building an inventory further includes the steps of the mobile migration manager inventory-tracking tool transmitting the information gathered by said mobile tool to the mailer database, using an adapter by exception tool to gather information about a client, machine and device, and mailing the adapter by

exception tool to employees requiring migration upon demand (See col. 258 at lines 15-40, via database access adapters);

- the databases further include an adapter by exception mailer database containing one entry for each employee who has been sent the adapter by exception tool (See col. 260 at lines 5-15, via data access adapters for communicating with human resources systems at the functional level and the batch level); and
- the step of building the inventory further includes the step of the adapter by exception tool transmitting to the adapter by exception mailer databases information gathered by the adapter by exception tool (See col. 146 at lines 40-45, via an asset inventory system used as an active database to drive the configuration process).

Although Guheen does not expressly show the following limitations, they are shown by Campbell:

- said each of the entries in the migration manager database contains information about an owner, location and migration status, and the step of gathering information includes the step of using a migration manager inventory-tracking tool to gather information about a client, machine and device and to transmit the gathered information to the migration manager database (paragraph 46);

It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Guheen by adding the above limitations taught by Campbell in order to help facilitate a successful migration.

12. Regarding claim 19, although Guheen does not expressly show the following limitations, they are shown by Campbell:

- an instance manager database containing one entry for each instance of the migration manager database (paragraph 34: *The remote master server acts as a redundant backup system o the OSS 24, and therefore contains at least one entry for each instance of the migration manager database [the OSS]*); and
- a documentation and rules database containing documentation and configurable rules common to all instances of the migration manager database (paragraphs 83-89: *Configurable rules that document migration parameters can be saved as text files or a set of files, which constitute a database*).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify the system and method of Guheen by adding the above limitations taught by Campbell in order to increase data preservation and consistency between migrations (Campbell: paragraph 13).

Response to Arguments

13. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hohman (2005/0086457) – Shows a system and method for providing user-controlled and automated migration using a deployment framework with update tools.

15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Shin whose telephone number is (571) 270-3276. The examiner can normally be reached on Monday to Friday, 10:30 am - 7:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on (571) 272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John Shin
Patent Examiner, A.U. 3687
March 6, 2009

/Elaine Gort/
Primary Examiner, Art Unit 3687